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In re Application of
ICHIMURA, et al.
U.S. Application No.: 09/856,617
PCT No.: PCT/JP99/06487
Int. Filing Date: 19 November 1999
Priority Date: 24 November 1998
Attorney Docket No.: 766.52
For: NOVEL POLYPEPTIDE

DECISION ON RENEWED

PETITION UNDER

37 CFR 1.181

This decision is in response to applicant's "Request For Reconsideration of Petition" filed 05 February 2004 in the United States Patent and Trademark Office (USPTO). No petition fee is due.

BACKGROUND

On 21 January 2004, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.181 to withdraw the holding of abandonment in the present application. Applicant was afforded two months to file any request for reconsideration.

On 05 February 2004, applicant filed the renewed petition under 37 CFR 1.181 considered herein.

DISCUSSION

The present application became abandoned as to the National stage in the United States for failure to timely file a proper response to the "NOTIFICATION OF DEFECTIVE RESPONSE ABANDONMENT" (Form PCT/DO/EO/918) mailed 08 January 2004. As detailed in the decision mailed 21 January 2004, the USPTO does not dispute that applicant filed a response to the Form PCT/DO/EO/916 on 22 January 2003. However, since the filed sequence listing was not in compliance with 37 CFR 1.821-1.825, the response, while timely, was not considered proper. Applicant is correct that the error found in the Computer-Readable Form (CRF) filed 22 January 2003 had not occurred in previously filed CRFs. However, as the time period for responding to the originally mailed form PCT/DO/EO/905 and subsequent forms Form PCT/DO/EO/918 had expired with a compliant CRF still outstanding, abandonment of the application was proper. Applicant is advised that the presently filed CRF will be forwarded for examination and, should it be found compliant, would constitute a "proper reply" in the context of any petition to revive which applicant may want to file as discussed below.

RECOMMENDATION

Applicant may wish to consider filing a petition to the Commissioner under 37 CFR 1.137(a) or (b) requesting that the application be revived. Any petition filed under 37 CFR 1.137(a) and/or a petition under 37 CFR 1.137(b) requesting that the application be revived must meet the criteria indicated in the recent revision of 37 CFR 1.137. See 62 Fed. Reg. 53131 (October 10, 1997); 1203 Off. Gaz. Pat. Office 63 (October 21, 1997) (Effective Date: 01 December 1997).

This recommendation to file a petition under 37 CFR 1.137(a) or (b) should not be construed as an indication as to whether or not any such petition(s) will be favorably considered.

CONCLUSION

For the reasons above, applicant's renewed petition under 37 CFR 1.181 is **DISMISSED**.

This application remains abandoned as to the United States of America.

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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